

# Appendix D: Sample Statutory Road Association Bylaws

## BYLAWS OF THE SAMPLE ROAD ASSOCIATION

ADOPTED 30 August 2009

The name of the Association shall be **Sample Road Association**, and said Association shall be located in **Nowhere, Maine**, and is being formed as a Statutory Road Association under Maine Law.

The following provisions shall constitute the Bylaws of this Association, established hereby, to wit:

### **Section 1. Composition, Powers and Duties of the Board of Directors.**

The Board of Directors shall have the powers and duties necessary for the administration of the affairs of the Association and may do all such acts and things except as by law or by this document may not be delegated to the Board of Directors by the property owners. A property owner is defined as a person who, or entity that, owns property that is accessed via a private way in **Nowhere, Maine** known as **Sample Road** (hereinafter called the Common Element).

The Board of Directors shall be composed of \_\_\_ # Officers and \_\_\_ # Directors. The Officers shall be a President, Vice President, Secretary, Treasurer, Road Commissioner/president, and Assistant Road Commissioner. The powers and duties of the Board of Directors shall include, but shall not be limited to, the following:

1. Operation, care, upkeep, and maintenance of the Common Element.
2. Determination of the common expenses required for the affairs of the Association, including, without limitation, the operation and maintenance of the Association.
3. Collection of the assessed charges from the property owners.
4. Employment and dismissal of the personnel necessary or advisable for the maintenance and operation of the Common elements.
5. Opening of bank accounts on behalf of the Association and designating the signatories required therefore.
6. Obtaining insurance for the Association, pursuant to the provisions hereof.
7. The Board of Directors shall have the power to enforce obligations of property owners; to allocate income and expenses; and to do anything and everything else necessary and proper for the sound management of the Association.
8. Enter into contracts for the maintenance, upkeep, and repair of the Common Element.
9. Posting the road to ensure the safety of property owners and their guests.

### **Section 2. Expenses, Profits and Funds.**

- A. Each property owner shall be liable for expenses of the Association according to his respective assessment which assessment may not exceed 1% of an individual's property assessment in any calendar year. The Board of Directors may, to such extent as they have been directed by vote of the majority of the property owners attending any meeting, set aside funds of the Association as reserve or contingent funds and may use the funds so set aside for reduction of indebtedness or other lawful capital purpose, or, subject to the provisions of the following Section 4, for repair, rebuilding or restoration of the Association roadways, or for improvements thereto.
- B. At least thirty (30) days prior to each annual anniversary of the adoption date of these Bylaws, the Board of Directors shall estimate the expenses expected to be incurred during the next fiscal year, together with a reasonable provision for contingencies and reserves, and after taking into account any undistributed funds from prior years, shall determine the assessment to be made for such fiscal year. If after a meeting of the property owners, it is voted to continue the Association for an additional year, and an assessment is approved, then the Board of Directors shall promptly render statements to the property owners for their respective shares of such assessment. Said assessment shall be paid to the Association no later than 30 September immediately following the annual meeting. Assessments not paid within thirty (30) days of 30 September will be delinquent. In the event of default by any property owner in paying the annual assessment, such charge

shall be collected pursuant to Maine law, but only after a majority vote of the Board of Directors. Property owners delinquent in the payment of their assessment lose their right to vote at the annual meeting or any special meeting called by the Board of Directors.

In the event that the Board of Directors shall determine during the year that the assessment so made is less than the expenses actually incurred, or in the reasonable opinion of the Board of Directors, likely to be incurred, the Board of Directors shall make a supplemental assessment or assessments and render statements therefore in the manner aforesaid, and shall call a special meeting of the property owners to vote upon the same, pursuant to the terms of these Bylaws. Upon obtaining a majority vote of the attending property owners in favor of the same, such statements shall be payable and take effect as aforesaid.

- C. The Board of Directors shall expend funds only for Association expenses.

### **Section 3. Insurance.**

- A. The Board of Directors shall obtain and maintain, to the extent available, a policy of liability insurance for the benefit and protection of the Association Officers, Directors and of all the property owners, naming this Association as the insured. This policy shall protect the Officers, Directors and property owners from liability arising from the usage of the roads of the Association by any person or persons, but said policy will not insure for the protection of any property owner for any liabilities incurred upon their property as to which it shall be the separate responsibility of the property owners to insure. Such insurance shall, unless the same is not obtainable, be maintained in the amount equal to one million dollars (\$1,000,000).
- B. Any liability policy shall, unless the same is not obtainable, provide:
  - 1. that such policy may not be canceled, terminated or substantially modified without at least thirty (30) days notice to the Association;
  - 2. for waiver of subrogation as to any claims against the Association, the Officers, Directors, agents, employees, the property owners and their respective employees, agents and guests;
  - 3. for waivers of any defense based upon the conduct of any insured; and
  - 4. in substance and effect that the insurer shall not be entitled to contribution as against any casualty insurance, which may be purchased separately by property owners.
- C. The cost of all such insurance obtained and maintained by the Board of Directors pursuant to the provisions of this Section 3 shall be an Association expense.
- D. The members of the Board of Directors shall not be liable to the property owners for any mistake of judgment, negligence or otherwise, except for their own individual willful misconduct or bad faith. The property owners comprising the association shall indemnify and hold harmless each of the Officers and Directors against all contractual liability to others arising out of contracts made by members of the Board of Directors on behalf of the Association, unless any such contract shall have been made in bad faith or contrary to the provision of these Bylaws. It is intended that the members of the Board of Directors shall have no personal liability with respect to any contract made by them on behalf of the Association.

### **Section 4. Rebuilding and Restoration; Improvements.**

- A. In the event of any casualty loss to the Common Element, the Board of Directors shall proceed, without notice to the property owners, with the necessary repairs, rebuilding, or restoration.
- B. A vote by the majority of the property owners present at any meeting of the Association properly called under these Bylaws may agree to make an improvement to the Common Elements and assess the cost thereof to all property owners as a common expense.

### **Section 5. Meetings.**

- A. The Board of Directors shall meet annually on the date of (and immediately following) the annual meeting of the property owners. Other meetings may be called by and in such other manner as any member of the Board of Directors may establish, provided that

written notice of each meeting stating the place, day and hour thereof, shall be given at least two (2) weeks before such meeting to each member of the Board of Directors. One half (1/2) of the number of members of the Board of Directors shall constitute a quorum at all meetings, and such meetings shall be conducted in accordance with Roberts Rules.

- B. That commencing with the calendar year 2009, there shall be an annual meeting of the property owners on the third Saturday in August in each year, at 10 A.M., at the Association premises or at such other reasonable place and time as designated by the Board of Directors by written notice given to the property owners at least thirty (30) days prior to the date so designated. Special meetings of the property owners may be called by the Board of Directors or by the property owners upon the written request of thirty-three percent (33%) of the property owners of the Association. Written notice of any such meeting designating the place, day, hour thereof shall be given by the Board of Directors to the property owners at least thirty (30) days prior to the date so designated. The Board of Directors shall appoint a person to act as moderator for the annual meeting of property owners. At the annual meeting of the property owners, the Board of Directors shall submit written reports of the management and finances of the Association. At any meeting at which the Board of Directors proposes to submit to the property owners any matter with respect to which approval of or action by the property owners is necessary or appropriate, the notice of such meeting shall so state and reasonably specify such matter.
- C. At the annual meeting to vote for a continued Association, the property owners shall have one vote for each property, and a majority of the property owners present at such a meeting shall prevail. They shall vote for officers and directors. These individuals must be property owners within the Association area, and shall all be considered members of the Board of Directors.
- D. The duties of the President, and in the absence of the president, the Vice President, shall include the management of the Association as approved by the property owners at the annual meeting and within the guidelines of these Bylaws.
- E. The duties of the Secretary shall be to record and maintain the records of the Association and to perform such duties as are determined by the property owners at the annual meeting, or by the Board of Directors.
- F. The duties of the Treasurer shall be to record and maintain the financial records of the Association, and to perform such duties as are determined by the property owners at the annual meeting, or by the Board of Directors.
- G. The duties of the Road Commissioner/President shall be: to determine what repairs and maintenance are needed for upkeep of the Common Element, and to make recommendations to the Board of Directors and the property owners, and to perform such maintenance and repairs as the property owners or the Board of Directors directs and/or as authorized by 23 M.R.S.A. Sections 3101 to 3106, and to collect unpaid assessments on behalf of the association as set forth in Section 3103.
- H. The duties of the Assistant Road Commissioner shall be to assist the Road Commissioner/President in his duties, and to act as Road Commissioner/President during prolonged absence or unavailability of the Road Commissioner/President.
- I. The duties of the Directors are to assist the Officers and the Board of Directors in carrying out their duties and as directed by the property owners at the annual meeting.

Any vacancy of any of the positions of the Board of Directors shall be filled by a vote of the remaining members of said committee, and this (these) appointment(s) shall be valid for the remainder of the term for said position.

The property owners may vote on any other matter of the Association including but not limited to: (1) the level of maintenance requested, (2) the level of repairs to be made, and (3) any capital improvements made to the roadways.

**Section 6. Notices to Property Owners.**

Every notice to any property owner required under the provisions hereof, or which may be deemed by the Board of Directors necessary or desirable in connection with the execution of the Association created hereby, or which may be ordered in any judicial proceeding, shall be deemed sufficient and binding if a written or printed copy of such notice shall be given by one or more of the members of the Board of Directors to such property owner at his address as it appears upon the tax records of the Town, at least thirty (30) days prior to the date fixed for the happening of the matter, thing or event of which such notice is given, or such longer period of time as may be required by the specific terms of this instrument. Property owners may waive notice by duly executing an appropriate waiver of notice.

**Section 7. Inspection of Books; Reports to Property Owners.**

Books, accounts and records of the Association shall be open to inspection to any one or more of the members of the Board of Directors, or any property owner(s) at all reasonable times. The Board of Directors at the annual meeting shall submit to property owners a report of the operations of the Board of Directors for the previous fiscal year, which shall include financial statements in such summary form and in such detail as the Board of Directors deem proper. Any person who has been furnished with such report and shall have failed to object thereto by notice in writing to any member of the Board of Directors, given by registered or certified mail within a period of one (1) month of the date of receipt of such report, shall be deemed to have assented thereto.

**Section 8. Checks, Notes, Drafts and Other Instruments.**

Checks, notes, drafts and other instruments for the payment of money drawn or endorsed in the names of the Board of Directors or of the association may be signed by any one of two (2) members of the Board of Directors, or by any person or persons (who may be one of the Board of Directors) to whom such power may at any time or from time to time be designated by not less than a majority of the Board of Directors.

**Section 9. Fiscal Year.**

The fiscal year of the Association shall be from 1 September through 31 August of the succeeding year.

**Section 10. Proxy and/or Absentee Voting.**

The Board of Directors shall consider whether to establish proxy and/or absentee voting for any forthcoming Association meeting, and if so voted, shall establish parameters for said proxy and/or absentee voting, including but not limited to, appointment of voting member for any property, method of proxy and/or absentee voting, and time frame for said proxy and/or absentee vote. In any event, the proxy and/or absentee vote shall be held to the same standards as stated within these Bylaws.